

Mr. B. P. Basappa Setty.—

Would it not help the Government to know who should be nominated and from what communities?

Second Member of Council.—

We cannot nominate members from all communities.

Mr. B. P. Basappa Setty.—

My point is this. There were two members of one particular community on the council by election. Why was another man from the same community nominated to the council? Is it not due to the influence of the Amildar?

Dewan.—

May be enquired into, if necessary.

GOVERNMENT BUSINESS—(continued).

II. General Principles of the Bill further to Amend the Mysore District Boards Regulation, 1926.

THE SECRETARY TO GOVERNMENT, GENERAL DEPARTMENT, explained the principles of the Bill as follows:—

Under Section 68 of the Mysore District Boards Regulation, railway cess should be utilised solely for the construction of railways and tramways or for guaranteeing the payment of interest on capital expended on any railway, tramway, or other works which may directly improve the means of communications within the district in which it is levied or between such district and other districts. The Chitaldrug District Board resolved on 18th January 1930 that they may be permitted to utilise the railway cess for the improvement of ordinary communications. Subsequently, the Tumkur District Board requested Government in November 1930 that they may be permitted to utilise the interest on railway cess for the construction and maintenance of roads. The District Boards of Kolar, Mysore and Shimoga who were consulted in the matter have agreed to the proposal of the Tumkur District Board.

It is accordingly proposed to amend Section 68 of the District Boards Regulation so as to allow the utilisation, on works which may improve the means of communication in the district, of the whole or any portion of the interest derived from investment of railway cess not immediately required

for expenditure, or the income from railways which is in excess of the amount required for repayment with interest of the loans raised, or the amount required for guaranteeing the payment of interest on capital expended for the construction of tramways or railways.

The matter is referred to the Representative Assembly for an expression of their views.

MR. D. S. MALLAPPA thanked the Government for having placed the Bill before the House. He said that in many districts, the railway cess was being collected with little or no prospect of any new railway line being opened in the near future and the cess fund was getting accumulated. At a time when the Government were hard up for funds for the improvement of roads which were the only other means of transport, it was desirable to utilise the railway cess fund for the improvement of communications instead of allowing the money to lie idle. The Bill before the House contemplated the utilisation of only the interest on the railway cess fund for the improvement of roads. That would not go very far. He thought that, if the cess amount as a whole was made available, it would save the Government the trouble of their having to amend the law again in the near future for providing for it.

THE DEWAN said that a beginning might be made by utilising the interest.

MR. MIR MAHOMED also supported the measure before the House.

MR. G. MALLANNA opposed the general principles of the Bill. His reasons for doing so were that the railway cess was meant for the express purpose of opening new railway lines and not for being spent on other communications. If this principle was not followed, the fund might be utilised for any other purpose in future with the result that when the time came for opening a new railway line, there would be no money in the said fund. In the second place, maintenance of roads was the main duty of the Government. The diversion of the interest on railway cess fund towards road maintenance would amount to an additional burden on the tax-payers for the upkeep of roads.

THE DEWAN said that it was necessary to take a broader view of the matter. After all, the measure was only a permissive one and nothing would be done against the wishes of the District Boards.

MR. MALLANNA pointed out that, if the interest on the accumulated funds were utilised for road construction, there

would be no scope for the fund to accumulate, and if later on it was decided that a railway line should be put up in any particular district, there would be no funds available for the purpose.

THE SECOND MEMBER OF COUNCIL pointed out that the interest would be devoted for the improvement of roads only in districts where there was no near prospect of opening new railways. Even there, the money actually collected for railway lines together with the accumulated interest would be left intact and only the interest that would accrue hereafter would be utilised for roads. Government would consider all these matters before finally sanctioning the proposal for utilising the interest towards the improvement of roads.

MR. DYAVAPPA GOWDA said that if it was proposed to utilise the interest for other than railway construction, there was no reason why the railway cess should be recovered from the people at all. It might be finally abolished.

MR. NILGIRI G. SANJEEVIAH said that the railway cess was a sort of taxation. Although the people were repeatedly pressing upon the attention of the Government the necessity for the total abolition of the railway cess wherever there was no prospect of the construction of new railway lines, Government had paid no heed to that representation. It was a wonder to him how the non-official Presidents of the District Boards who were opposed to the continuance of the levy of the railway cess could now come forward and say that the railway cess might continue to be levied, but that the interest on the accumulated funds might be diverted towards the improvement of communications. In his view, the continuance of the cess was not in the interests of the raiyat population at all, and that, if it was continued, it should not be utilised for purposes other than railway construction.

A representative from the Shimoga District supported the measure.

MR. SYED KHAJA PEERAN said that it was a well-known fact that in these days railways worked at a loss everywhere, the motor buses having taken their place. He therefore agreed that the improvement of communications was more necessary and that the interest on the cess fund might be utilised for that purpose.

MR. K. CHENGALRAYA REDDY pointed out that the question at issue was not whether the railway cess should continue or not. The cess had been and was being collected and as there was no prospect of any construction of new

railway lines in the near future, he agreed that the interest might be utilised for road construction as proposed in the measure before the House.

MR. L. VEMA REDDY also spoke in favour of the Bill. He said that in the interior of the State, there were absolutely no transport facilities for the poor raiyats and that it was important that road facilities should be taken to the homes of the villagers. He went further and said that the cess fund itself—a major part of it—might be utilised for road construction as railway lines would not benefit the interior villages at all.

MR. BAGAMANE DEVA GOWDA regretted that Government did not find it possible to extend railway facilities in the Kadur District. Kadur, as was well-known, was a very backward district. There were no transport facilities in the district, and if the railway cess fund which at present amounted to nearly Rs. 10 lakhs was allowed to be frittered away on road improvement and other similar purposes, he was afraid that the original idea with which the cess was collected would be frustrated. He did not know the conditions in the other districts and so he did not want to obstruct the passage of the Bill under discussion. But his main point was that if any particular District Board was in favour of utilising the cess, it should be made clear that their resolution should not be accepted unless three-fourths of the total number of members of the District Board voted in favour of the proposal. He also pointed out that it should be a rule that the *corpus* of the fund should, under no circumstances, be touched. He also urged that the Government should be cautious while sanctioning the proposal of the District Board for utilising the interest on the fund towards the improvement of communications.

MR. M. C. LINGE GOWDA opposed the measure on the ground that the railway cess fund was meant for extending railway facilities and as such should not, under any circumstances, be allowed to be utilised for any other purpose. If to-day the interest was allowed to be spent on an item other than railway construction, it would be no wonder if, on the next day, a proposal was put forward to apply it to some other purpose. He was afraid that in that way there would be nothing left for railway construction eventually. He added that this was a proposal put forward by the young and energetic Presidents of the District Boards who wanted large sums of money for expenditure.

CAPT. Y. V. AYYA said that, before sanctioning any
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proposal for the utilisation of the interest on the railway cess fund, lists should be prepared of places where it would be possible to give railway facilities and where not, with a view to utilise the interest on the fund for road communications only in places where it was not proposed to extend the railway facilities.

MR. G. CHANNAPPA said that this proposal was first put forward not by any non-official Presidents of the District Boards as was suggested by Mr. Linge Gowda, but by the Deputy Commissioner of Chitaldrug when he was the President of the District Board. So far as the Chitaldrug District was concerned, the possibilities of the Tumkur-Chitaldrug railway line were investigated and it was found that the line would not pay. It was therefore considered useless to accumulate the cess fund. There were many representations from the people for opening up new roads, but the District Board could not meet the demand. It was thought that the railway cess fund could be better utilised for the improvement of communications in the district and a committee, was appointed to go into the question and its recommendation was submitted to Government. After all, the measure before the House was only an enabling one and whichever District Board wanted better road facilities could apply for the utilisation of this fund. It did not mean that the moment the amendment was passed, all the interest amount available in each district would be utilised for road construction. In these days of bus traffic, roads were more important to the rural population than railways.

MR. B. P. BASAPPA SETTY doubted whether the very same non-official Presidents who favoured the present proposal would have agreed to it if they had not been such Presidents. He was of opinion that the measure was opposed to an important principle, viz., that the railway cess should be employed only for the construction of railways. So far as Kadur District was concerned, he said that it was very backward in the matter of railway facilities; there were absolutely no facilities for the transport of forest and other produce of the district. As such, he thought that the construction of a railway line in the district was very necessary.

In regard to road development, he said that the petrol tax had recently been enhanced; the road cess was already being levied and even in spite of these measures the roads were not properly taken care of. While such was the case, he doubted whether the utilisation of the cess fund would help to improve communications. He also doubted whether

the opinion of the District Boards was necessarily the opinion of the people. The question of the utilisation of the cess fund for road development was still under the consideration of the District Board of Kadur and no decision had been reached and he would not therefore agree to the measure under discussion at that stage.

MR. B. GOPALACHAR was in favour of the proposed measure.

MR. DYAVAPPA GOWDA had no objection to the interest on the railway cess being diverted to road development provided that the amount was distributed to the Village Panchayets instead of being administered by the District Boards from headquarters.

MR. H. KRISHNAMURTHIACHAR opposed the measure and was of the opinion that the cess should be utilised only for the construction of railway lines and tramways.

MR. K. T. SATYANARAYANA SETTY, supporting the measure, observed that the existing District Board Regulation did not empower the District Boards to utilise the railway cess fund for any purpose other than for the construction of railway lines in each district. Certain District Boards had a large accumulated amount of railway cess lying idle without any prospect of its being utilised in the near future for the construction of any railway lines in their districts. They therefore considered it proper to utilise a portion of such fund for the improvement of road communications in their districts. As, however, they had no power to do so under the provisions of the District Board Regulation, they suggested that an enabling clause should be inserted in the Regulation to provide for the utilisation of the cess fund, under the circumstances mentioned by them, for the improvement of road communications. It would thus be seen that Government themselves did not take the initiative in the matter. But, it was on the suggestion of the District Boards only that the present Bill was brought up before the House. The Bill moreover provided for the utilisation of only the interest derived from the investment of railway cess and not the *corpus* itself. And it did not also give power to District Boards to utilise that amount straightway. It was necessary that Government should, on a consideration of all the circumstances, sanction the proposal. There was thus no fear, as entertained by some members, that all the accumulated railway cess fund would be spent away and that nothing would be left if later on it was proposed to start any railways in the districts. He did not think that it was a proper thing

to allow the accumulated funds to lie idle if there was no possibility of their being utilised in the near future for the specific purpose for which they were collected. In these circumstances, he strongly supported the measure.

MR. S. C. MALLIAH opposed the Bill on the ground that, although the idea underlying it was good, it went against an important principle, namely, that a fund created for a particular purpose should not be utilised for a different purpose. The indirect effect of passing a measure of the kind under consideration was, in his opinion, that Government would absolve themselves of all responsibility to take up railway construction in the districts.

MR. T. MARIAPPA also opposed the Bill on the main ground that a cess collected for a specific purpose, namely, for the construction of railways, should not be utilised for the construction of roads. If the principle of diversion of funds was allowed in the present case, it might later on be argued that the same fund on the same analogy might be diverted for any other purpose also.

MR. M. S. LINGE GOWDA did not think that the question of a principle should be allowed to interfere in a case of this kind where a more practical disposition of the cess fund was possible in the best interests of the raiyat population. The situation at present was that the villagers did not much care whether a railway line was constructed in the district so long as they had adequate facilities for travelling from one village to another and from the village to the town. The speaker went further than the Bill and suggested that provision might be made for utilising the entire fund also for improving road communications in the districts.

MR. ABDUL AZIZ was of opinion that the railway cess should be utilised for the very object for which it was collected and that no diversion of the fund should be allowed for any other purpose.

MR. SUBBANNA NAIK said that the railway cess was levied at a time when it was considered that the construction of railway lines was found to be very necessary. The times having changed and buses having begun to ply into the interior parts of the country; the raiyats came to realise that roads were more necessary for them than railways, so that they might go freely from village to village. The speaker thought that it would be better if Village Panchayets were also allowed to operate on a portion of the interest amount for the improvement of communications in their villages.

MR. RAMIAH SETTY said that railway cess was collected

from everybody in the district and the construction of a railway line with the aid of that cess would not help all the people who paid the cess. On the other hand, improvement of roads or construction of new communications would better serve the purpose of the raiyats of interior villages.

THE SECOND MEMBER OF COUNCIL, speaking on behalf of Government, observed that the subject had been dealt with at great length. The only point for consideration in the present case was whether the measure brought forward was beneficial to the people at large. From the discussion it looked as if almost all the members approved of the object underlying the Bill, but that some of them opposed it on the ground that it was contrary to a certain principle, namely, that it would violate the original promise of utilising the cess fund for the construction of railways alone. There was no doubt that, in some districts, railways had been opened with the aid of the cess. But, in some other districts, there were various difficulties as, for instance, in Kadur. At one time it was proposed to take up the line from Kadur to Chikmagalur and estimates also were got prepared; but, on a thorough investigation of the financial results, it was found that they were not quite adequate and hence the project had to be dropped. In Tumkur also, the railway scheme could not be put through for similar reasons. In the Mysore District, however, some lines were opened with the aid of the cess fund and also with the aid of debenture loans floated by the District Board.

It was not denied that the original levy was mainly for the construction of railway lines. But it was found that in one or two districts there was absolutely no scope for carrying on the railway policy immediately. Nay, there was not even the near prospect of considering such a policy in connection with those districts. Hence, instead of keeping the money collected by them idle, it was now proposed to utilise only the interest that would accrue on it hereafter for the improvement or construction of roads. It was stated that the local people would be amply satisfied if they were given either railways or something which would afford them some relief in the matter of easy transport. Hence, wherever railway construction was not immediately possible, it was suggested that an enabling clause should be inserted in the District Board Regulation in order to enable the District Boards to utilise the interest alone for the improvement of means of communication. On a careful reading of the District Board Regulation, it would be found that the cess

could be used for "communications." This term was very wide including, as it did, the construction of roads also. It was not possible to give railway connection to every village. It might not also be possible to give road communications to every village. But while the difficulty for giving railway connection was very great, it was much less in the case of giving road communications. When the people were required to pay the railway cess year after year, it was not considered right to keep the collections idle indefinitely without any prospect of giving the villagers either railways or any other means of communication. In the absence of railway construction, the best means of utilising the amount was to spend the interest derived from investment of railway cess for the improvement of communications.

Secondly, it was remarked by certain members that by passing the present measure all chances of opening railways hereafter would disappear. He thought that this view was not correct. Wherever the construction of railway lines was possible and paying, the matter would certainly be considered. Moreover, permission to utilise the interest would not be given as a matter of course for the mere asking. The measure referred only to such of the districts as had no prospect of railway construction in the immediate future. Even the entire interest would not be spent on the improvement of road communications. Whatever was not likely to be required for immediate necessities would alone be utilised. He therefore said that the present measure would not, in the least, interfere with the general railway policy of the State.

The general principles of the Bill were thereupon put to vote and accepted by a large majority.

III. General Principles of the Bill for the Amendment of the Mysore Stamp Regulation.

THE FINANCIAL SECRETARY explained the principles of the bill as follows:—

As one of the measures for improving revenue, the Mysore Retrenchment Committee, 1931, observed that the existing uniform rate of stamp duty of one anna irrespective of the amount leviable on 'On Demand' promissory notes was low and recommended that a graduated scale as in British India may be adopted. The rates of duty as proposed to be revised will be as below:—

Promissory Note—

(a) When payable On Demand—

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| (i) When the amount or value does not exceed Rs. 250 | | One anna |
| (ii) When the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000 | | Two annas |
| (iii) In any other case | | Four annas |

Government accepted the recommendation, and action is proposed to be taken to introduce a Bill for the amendment of the Mysore Stamp Regulation in this behalf.

He added that some additional revenue would be realised from the passing of the measure in question (say about Rs. 3,000) without putting the people to any inconvenience.

MR. BAGAMANE DEVA GOWDA thought that the raiyat, due to ignorance of law, would stand to lose a lot of money by not affixing stamps of the proper value on On Demand documents.

MR. T. MARIAPPA, while admitting that the object of the Bill was good, said that due to ignorance of law the raiyat, who was long accustomed to use only one anna stamp on a promissory note whatever its amount, might still continue the old practice even for an amount exceeding Rs. 250, with the result that the document would become inadmissible in a Court of Law. The speaker therefore suggested that the Stamp Act might also be amended by inserting a provision in regard to the payment of a duty and penalty in cases where the document was insufficiently stamped.

MR. B. L. BYANNA also opposed the measure on similar grounds.

MR. B. GOPALACHAR thought that, owing to the prevailing economic distress, this was not the proper time for enacting a measure of the kind under consideration.

DHARMAPRAVARTHA M. L. NAGAPPA SETTY was of opinion that there was no objection to the measure provided the Stamp Act also was amended in the direction suggested by Mr. T. Mariappa.

MR. VENKATASAMIAH said that there was no reason to enact a measure of the kind proposed for the sake of an additional income of Rs. 2,000 or Rs. 3,000 annually, on the analogy of a similar law passed in British India a few years ago.

MR. NILGIRI G. SANJEEVIAH also thought that, if the legal difficulties referred to by Mr. T. Mariappa were

removed, there was no objection to the measure. Otherwise, the ignorant raiyat surely stood to lose large sums of money on account of his failure to affix stamp of proper value on an On Demand promissory note.

MR. D. S. MALLAPPA opposed the measure, because, while Government would get only a very small extra amount annually, the inconveniences to the people might be very great.

MR. S. C. MALLIAH also agreed with the above view.

THE DEWAN observed that the Federal Finance Committee had recommended that such laws should be uniform throughout India and what was proposed was merely to bring the Mysore law into line with that in British India.

MR. S. C. MALLIAH replied that when the federal constitution was adopted, many other similar difficulties would disappear automatically. In Mysore, there were very few literate people and many did not know law at all. Even in British India, there was a lot of agitation against such a law. The raiyats here had been already suffering on account of their ignorance of the Stamp Law as was evident from the fact that during the previous year as much as Rs. 15,000 was collected by Government as impounding fees, and the speaker did not think that they should be penalized further.

MR. BELUR SRINIVASA IYENGAR thought that this was an additional taxation. He pointed out that in the Dewan's Speech it had been stated that there was very little scope for additional taxation. While such was the case, there was no reason why this additional taxation should have been thought of by Government.

THE DEWAN said that he had not stated that there was no room for additional taxation at all. He added that as, however, the House did not appear to be in favour of the measure, Government were prepared to withdraw it for the present.

The Bill was thereupon withdrawn.

IV. General Principles of the Sale of Goods Bill.

THE GENERAL SECRETARY TO GOVERNMENT explained the general principles of the Bill as follows:—

The Indian Contract Act, IX of 1872, was introduced into Mysore during the Commission days by means of the Government of India Notification of 27th May 1878. Chapter VII of the Act dealing with the subject of the sale

of goods has recently been repealed in British India and replaced by a separate Act, called the Indian Sale of Goods Act (Act III of 1930). The scheme, wording and arrangement of the said Act follows closely the English Sale of Goods Act of 1893 (56 and 57 Victoria, Chapter 71) which is regarded as a very successful and correct codification of this branch of the mercantile law and has met with uniform approval and has been copied in most of the dominions and colonies in the British Empire and in the United States of America.

The Indian Act of 1930 was drafted by a special committee of leading lawyers of India presided over by Sir B. C. Mitter as its Chairman. The committee observed as follows regarding the necessity for amending the existing law on the subject :—

“Whatever merit the simple and elementary rules embodied in the Indian Contract Act may have had, and however sufficient and suitable they may have been for the needs which they were intended to meet in 1872, the passage of time has revealed defects, the removal of which has become necessary in order to keep the law abreast of the developments of modern business relations. The law relating to the sale of goods appertains mainly to mercantile transactions. There can be no doubt that, during the last half-century, conditions in this country relating to trade and business have undergone material changes. Methods of business have largely altered and new relations have arisen between man and man. In dealing with these relations, it has been necessary to give recognition to new principles, and the Indian Courts have found that a law enacted more than fifty years ago is entirely inadequate to enable them to deal with these new relations or to give effect to the new principles. The result has been that, on various occasions, the Courts have had to hold that Chapter VII of the Indian Contract Act is not exhaustive, and to import therein analogies from the decisions of the English Courts.

“The English law relating to the sale of goods which was admittedly the basis of Chapter VII of the Indian Contract Act has itself, since 1872, undergone drastic changes, and was finally codified in 1893 by the present Sale of Goods Act (56 and 57 Victoria, Chapter 71) which discards many of the old common law rules upon which Chapter VII of the Indian Act was based, in favour of provisions more suited to modern conditions or more convenient in actual practice.

"In mercantile transactions, a conflict of laws should, as far as possible, be avoided. Uniformity of law in various countries, particularly in those which have business or trade dealings with one another, is highly convenient and desirable. We therefore approve of the proposal to adopt the provisions of the English Sale of Goods Act so far as they are suitable to Indian conditions as the basis for the present Bill, and thus to make the Indian Law relating to the sale of goods, as nearly as possible, uniform with the law in force in other parts of the British Empire.

"The Committee retained several of the provisions of the Indian Contract Act which are useful to meet the special conditions existing in India, and adopted these provisions of the English Act which suited the needs and exigencies of this country."

The above statement and the reasons contained therein equally apply to Mysore. Our merchants in Mysore have large mercantile business with British India and it is very desirable, therefore, to make our law on the subject of sale of goods uniform with that in force in British India.

The Judges of our High Court have been consulted in the matter and they strongly recommend the adoption of the Indian Sale of Goods Act to Mysore.

The main points of importance that the Bill seeks to embody in the existing law are thus stated by the Special Committee:—

"(a) The present Bill embodies the principle that the question whether a contract for the sale of goods does or does not pass the property in the goods from the seller to the buyer must, in all cases, be determined by the intention of the parties to the contract. The provisions of Chapter VII of the Indian Contract Act are vague and conflicting on this point. The Bill codifies the rules by which that intention may be ascertained, but the operation of these rules will be displaced by any terms of the contract defining the intention or by any attendant circumstances, including the conduct of the parties, rendering it ascertainable. In following this principle, we have borne in mind that in mercantile matters the certainty of the rule is often of more importance than the substance. If the parties know beforehand what their legal position is, they can provide for their particular wants by express stipulations. Sale, after all, is a consensual contract and the Bill does not prevent the parties from making any bargain they please. Its object is to lay down clear rules for the cases where the parties have either framed no intention or failed to express it.

“(b) The distinction between a sale and an agreement to sell, which was not clear in Chapter VII of the Indian Contract Act, has been clearly brought out. This distinction is very necessary to determine the rights and liabilities of the parties to the contract.

“(c) It is made clear that a contract of sale can be made by mere offer and acceptance. Neither payment nor delivery is necessary for the purpose.

“(d) In the Indian Contract Act, the word ‘warranty’ has been used in a very vague sense. In some provisions, it denotes a condition which would enable a party aggrieved by its breach to repudiate the contract, while in others it enables him to claim damages only. In the Bill, this ambiguity has been removed.

“(e) There is much conflict of decisions regarding the meaning of Section 108 of the Indian Contract Act which relates to sales by ostensible owners. This is, to a certain extent, due to the obscure phraseology of the Section itself. The Bill removes this obscurity in Clauses 24 to 30 of the Bill and simplifies the law on the subject.

“(f) The rules relating to delivery to carriers, stoppage in transit and auction sales are elaborated.”

MR. H. C. DASAPPA thanked the Government, on behalf of the people, for having brought up a measure of this kind. The Bill did not embody any new principles. Modes of commercial business had altered during recent years and many new relations had arisen between man and man. The Courts themselves which administered the existing Law of Contract found it difficult to deal with such new relations. The result was that there was considerable difference of opinion in regard to the decisions given by them. The object of the present measure was to obviate such differences of opinion. This had been done in British India and what was proposed to be done now was merely to bring the same law into force in Mysore. In Bangalore Cantonment, the people of which had daily commercial intercourse with the people of the city, the British Indian Law was in force. It had therefore become necessary to bring the Mysore Law into line with that in British India.

MR. BELUR SRINIVASA IYENGAR also thought that the measure was very necessary.

MR. T. MARIAPPA thought that the Law of Contract as enforced at present was very old and that there were very conflicting decisions given by High Courts on particular sections with the result that commercial people experienced

very many difficulties. He was of opinion that the law should be uniform everywhere. The present measure served a real need and should be brought into force in Mysore without delay.

DHARMAPRAVARTHA M. L. NAGAPPA SETTY and MR. D. S. MALLAPPA also supported the measure.

The general principles of the Bill were thereupon put to vote and passed.

V. General Principles of the Bill to Amend the Indian Contract Act, 1872, as in force in Mysore.

Section 108 of the Contract Act dealing with the subject of sale of goods by persons who were in possession of the goods as ostensible owners had been materially altered by Clauses 27 to 29 of the proposed Sale of Goods Bill. Section 178 of the Act relating to pledges, which was a cognate section, and was based on the same principle as Section 108, had consequently been amended in British India by Act IV of 1930, and the present Bill proposed to do the same thing in Mysore, so as to bring the law in conformity with that in British India.

There being no discussion on the Bill, the general principles were put to the vote and passed.

VI. Discussion on the Statement of General Principles of the Municipal Bills for the Management of Municipal Affairs in (1) Cities, (2) Towns and (3) Minor Municipalities.

MR. D. S. MALLAPPA complained that the three Bills in question had not been translated and supplied to the members. There was a large number of controversial matters involved in the three Bills, and without printed copies being supplied to the members, it would be very difficult for them to follow the exact changes that were sought to be made in the existing Municipal Regulation. He therefore suggested that the Bills might be translated into Kannada and brought up before the next session of the Assembly. He also observed that the principles embodied in the Bills were very complicated and that some sections in them had been taken from the Bombay Acts while some others, from those of Madras. It was therefore necessary for the members to carefully compare the sections of each and find out which were more

suitable to Mysore conditions. He added that the committee considered the provisions in great hurry and he could also say that the Bills had not received sufficient consideration at their hands.

THE DEWAN pointed out that the Assembly was required to discuss only the general principles of the Bills.

MR. D. S. MALLAPPA thought that it was important to know how the present scheme of local self-government was going to be altered by the new Bills. For that reason, the members ought to be supplied with Kannada copies of the Bills for detailed study.

MR. P. SUBBARAMA CHETTY observed that the present Bills would affect all the municipalities in the State, that Government were not pleased to send the report of the committee to the municipalities concerned before taking them up for consideration, that the measure proposed was very important and even deserved to be discussed at a conference of people interested in local self-government and that therefore it was not desirable to rush through the Bills.

THE DEWAN observed that it was not right to characterise the action of Government as rushing the measure. The Bills were placed before the Assembly in response to its desire expressed at the previous session. The Bills had been based on the suggestions made by a committee appointed at the instance of the Assembly and, after the principles of the measures were discussed here, any changes necessary would be embodied in the Bills which would be published and considered in the Legislative Council in all the prescribed stages.

MR. P. SUBBARAMA CHETTY contended that, in the absence of a thorough study by the members, it was difficult to follow the principles as given by Government, and for such a study, it was absolutely necessary that members should be supplied with Kannada copies of the Bills.

THE SECOND MEMBER OF COUNCIL pointed out that it would not be right to delay the consideration of the principles of the Bills when they were quite ready.

MR. P. SUBBARAMA CHETTY replied that the Bills were not, as a matter of fact, ready for the reason that they were printed in English and could not be made use of by a majority of members who did not know English. He therefore suggested that the consideration of the Bills might be deferred.

THE DEWAN observed that it was not advisable to defer the consideration of the Bills further as they had

already been long deferred. He said that the measures might be taken up for discussion on Monday the 26th October 1931.

At this stage, the Assembly adjourned for lunch.

On re-assembling at 3-30 P.M., THE DEWAN informed the House that Mr. Hosakoppa Krishna Rao had given notice of an adjournment motion as follows:—

"That the business of the House be adjourned for the purpose of discussing a definite matter of urgent public importance, viz., the notification of the Government, dated the 14th September 1931, directing that the order of the District Magistrate of Bangalore, dated the 21st July 1931, purporting to have been passed under Section 144, Criminal Procedure Code, prohibiting Mr. P. M. Rama Sharma of Basavangudi, Bangalore City, from entering the area in Bangalore specified and from delivering public speeches within the Municipal limits of Bangalore City shall remain in force for a period of six months from 21st September 1931."

He said that, in the interests of public safety, the Government and their officers had to exercise the powers vested in them according to circumstances and the requirements of each case, and the action of the District Magistrate of Bangalore and of the Government in the matter referred to in the adjournment motion was quite justified. There was no use, therefore, in discussing the merits of the particular case referred to in the motion. If, however, the object was to discuss the general policy underlying such orders, he, as President, had no objection to allow it. But under the rules, not less than 50 members should agree to the motion being allowed for discussion, and so he asked whether the House was in favour of it.

CAPT. Y. V. AYYA said that, before ascertaining whether 50 or more members were in favour of the adjournment motion being discussed, it was necessary to consider the desirability of admitting such an adjournment motion.

THE DEWAN replied that the House might allow or disallow it.

CAPT. Y. V. AYYA asked whether the motion related to an urgent matter of public interest.

THE DEWAN said that he had considered the point in giving his approval to the motion.

MR. M. S. LINGE GOWDA enquired under what circumstances the order under reference had been served.

THE DEWAN stated that that was not for discussion.

More than 50 members having signified support to the admission of the adjournment motion, the Dewan informed

the House that it would be taken up at 4-30 P.M. on Saturday, the 24th October 1931.

The discussion on the general principles of the Municipal Bills was then continued.

MR. P. SUBBARAMA CHETTY asked whether there was any objection to making available to the House the report of the committee that had been appointed to draft these Bills. He said that this was necessary in view of the fact that that committee had been appointed on the representations made by the Assembly.

THE DEWAN replied that there was no objection.

MR. P. SUBBARAMA CHETTY said that there was no use supplying it at the last hour, because the members would have no time to go through it.

THE SECOND MEMBER OF COUNCIL doubted whether the House was really unable to understand the Bills without the report of the committee. Essential particulars had been made known to the members already, and whatever had been done was in accordance with the views expressed and suggestions given at the previous session of the Assembly. If any additional information was required, the Government were quite prepared to furnish the same. The committee consisted of representatives of City, Town and Minor Municipalities and all the suggestions made by them were embodied in the Bills. But, to help the members to correctly understand the provisions, he would explain the salient features thereof.

THE DEWAN suggested that the members might perhaps meet and decide among themselves which of the provisions might be accepted without discussion, so that the discussions to be held might be confined only to controversial points, if any, and time saved in that way.

This procedure was agreed to by the House.

VII. General Principles of the Bill further to Amend the Mysore District Boards Regulation, 1926.

MR. G. MALLANNA suggested that this question might also be taken up on Monday, as being in a way correlated with the Municipal Bills.

THE DEWAN observed that it was not necessary to postpone its consideration.

THE GENERAL SECRETARY TO GOVERNMENT explained the general principles of the Bill as follows:—

Under the rules prescribed for the conduct of public servants, Government servants, who are constantly arrested for debt or a moiety of whose pay is constantly being attached or is attached for a sum, which, in ordinary circumstances cannot be re-paid within a period of two years, are liable to dismissal. This rule is not applicable to the non-official Presidents and Vice-Presidents of District Boards. Under the present law, Government cannot take action against a non-official President or Vice-President even though he is arrested for debt. Under the existing District Boards Regulation, such Presidents and Vice-Presidents will be disabled to continue in office only if they are undischarged insolvents. The committee appointed, in June 1931 to prepare a separate Bill for the management of the Municipal affairs of each of the three classes of Municipalities considers that the administration of local bodies should not be brought into contempt by having a President or Vice-President who is heavily in debt and unable to pay his debts and that Government may take power to remove such Presidents and Vice-Presidents from office when an order of attachment in execution of a decree is subsisting against his property for a long time or when an order for his confinement in jail in execution of a decree is in force. As this principle is equally applicable to the case of District Boards also, it is proposed to amend the District Boards Regulation in accordance with the views of the committee and the matter is placed before the Representative Assembly for an expression of their views.

MR. H. B. GUNDAPPA prefaced by saying that this Bill which sought to place non-official Presidents and Vice-Presidents of District Boards on a par with officials called for the most careful consideration at the hands of the Assembly. While the conditions of Government service conferred certain rights and privileges on the latter, the former did not enjoy any such privileges and, in these circumstances, there was no justification for applying in their case the rules relating to the conduct of officials.

Secondly, no real need had been made out for the amendment of the Regulation as proposed, because nobody was aware of any instances in which non-officials had behaved in a manner so as to deserve the punishment. Under such circumstances if the amendment was accepted by the House, outside provinces would think that local self-government in the State was not all that was desirable. It was quite inexpedient to amend the Regulation as proposed, specially because such a provision did not exist anywhere else.

If in future any President or Vice-President was so heavily indebted as to become inefficient to discharge the duties expected of him, it would be quite open to the District Board concerned to pass a vote of "no confidence" and send him out of office.

With reference to the portion of the statement of general principles relating to Government officials who were heavily indebted and constantly arrested, etc., being liable to dismissal, the member observed that the rules in this behalf were honoured more in the breach than in the observance, and officials were allowed to continue in service in spite of heavy debts and arrests or attachments and enjoy their pay for thirty years or more and full pension for the rest of their lives. While such was the case, there was no reason why a President or Vice-President who might be subjected to arrest for reasons even beyond his control, should be removed from office.

CAPT. Y. V. AYYA supported the measure as being very necessary. It was all very well, he said, to talk of "no confidence" motions, but it would be hardly possible for the Board to meet and pass a vote of "no confidence" just when the President or Vice-President was about to be arrested.

MR. M. S. LINGE GOWDA also considered that the proposed amendment was very necessary. If the mere provision of a particular rule injured the reputation of local self-governing institutions in the State, he said, the existence of the Indian Penal Code would injure it even more.

MESSRS. D. S. MALLAPPA and H. B. GUNDAPPA pointed out that the Indian Penal Code related to criminals while Presidents and Vice-Presidents could not be styled criminals, simply because they might be indebted.

MR. M. S. LINGE GOWDA thought that instances must have come to the notice of the Government prompting them to propose a measure like this, though it was hardly desirable to quote them publicly.

MR. B. USMON KHAN, speaking in support of the measure, observed that once a non-official gentleman became President or Vice-President of a District Board, he also became an official. He did not understand why anybody should aspire merely for rights and privileges and fight shy of penalties for misconduct. He thought that every rule must equally apply to officials as well as non-officials and that the question of pay and pension should not have anything to do with the matter.

MR. G. MALLANNA also favoured the proposed amendment. It was impossible for a heavily indebted and constantly worried man to discharge public duties satisfactorily. It was a fact that, here and there, there were such individuals and the provision of a law to deal with them would have nothing but healthy results. It was not possible or desirable to bring forward "no confidence" motions on the basis of strictly personal matters. While even high officers were being dealt with severely for being heavily indebted, non-officials were all along free from any restrictions and this was a position which was not calculated to improve the affairs of District Boards.

DHARMAPRAVARTHA MR. M. L. NAGAPPA SETTY, agreeing with the above views, said that considerations of self-respect should not creep in while making legal provisions. Generally speaking, only men of means came forward to undertake honorary duties, but sometimes there were persons with whom self-interest weighed. In such cases, some amount of check and punishment was necessary.

MR. B. L. BYANNA observed that there was at present a difference of treatment between officials and non-officials. He agreed that once a person became President or Vice-President, he also became an official practically, and there was every reason to apply the same rules and regulations to him as to a regular official of Government. The Government, he said, deserved to be congratulated on bringing forward the amendment under discussion and he thought that opposition to it would be a reflection on the sense of duty of the House. He was for securing purity of service even in the non-official field, and he did not understand why any honest man should fear or resent legislation of this kind. Presidents and Vice-Presidents of District Boards were trustees of public funds and public interests, and as such they should always be above board. For these reasons, he was in favour of passing the measure under discussion.

MR. P. SITHARAMIAH, however, strongly opposed the measure as being both unnecessary and uncomplimentary. The electors might be well expected to know the qualifications and character of the candidates and to return persons of the proper type. If in any particular case the person returned proved undesirable, there were provisions enough in the existing Regulation which would come into operation and help the District Board to get rid of such a person. The provision under reference related mainly to indebtedness. He asked whether indebtedness was a crime. It may be that

in a partition suit and things like that, a man might lose his property and be unable to discharge his debts. Would he, for that simple reason, become unfit to continue as President or Vice-President? Similarly, any merchant might become insolvent at any time due to the present trade conditions all the world over. Such a man need not necessarily cease to preside over the affairs of the District Board, unless other things went against him.

MR. H. K. MADAIYA said that mere indebtedness was by itself no disqualification and that there was no necessity for the proposed measure.

MR. BAGAMANE DEVA GOWDA also opposed the amendment for the same reasons as those advanced by Mr. H. B. Gundappa. He added that specially in view of the fact that the term of office of President and Vice-President was limited to a few years, unlike that of Government officials, there was no need for such drastic disqualifying provisions.

KHAN BAHADUR MAHOMED ABBAS KHAN, in supporting the measure, said that if a President was arrested unexpectedly, the work of the District Board would naturally come to a stand-still. It would be impossible for the Board to meet and pass a resolution of "no confidence" because, under the rules, at least two or three weeks' notice of such meeting would be necessary. Other questions would also arise, such as the person that should give the notice. In the meanwhile, the current duties and correspondence would suffer for want of a presiding officer. For these reasons, he said that the amendment was quite necessary. Nobody need fear that it would cause unnecessary dislocation of work and disgrace to non-official Presidents and Vice-Presidents, because the amendment would apply only to those who were heavily in debt and against whom there were constant warrants of arrest.

MR. G. MALLANNA interrupted saying that he would like the amendment to operate against a President or Vice-President even when there was a single warrant of arrest.

Continuing, KHAN BAHADUR MAHOMED ABBAS KHAN appealed to the House not to allow considerations of individual self-respect to influence decision on such vital matters. He said that no President or Vice-President against whom there were warrants of arrest constantly could be fit to discharge the onerous duties expected of him.

MR. P. SITHARAMIAH suggested that even granting that they must be sent out of office under such circumstances, the Board itself might be empowered to do so instead of the Government.

KHAN BAHADUR MAHOMED ABBAS KHAN replied that this meant undue delay.

MR. S. C. MALLIAH said that he was not convinced by the reasons adduced by those who had opposed the amendment. The question of a non-official President or Vice-President being in office only for a few years, while Government officials held their offices for thirty years or more, was no valid reason for opposing the amendment. If, as some of the members had alleged, particular officials had not been relieved of their duties in view of their having been arrested, that was no reason why the rules should not also be enforced in the case of non-officials.

MR. H. C. DASAPPA said that it was necessary, in public interests, to have such restrictions and safeguards, when local self-government institutions were getting higher responsibilities.

MR. P. SUBBARAMA CHETTY referred to the present unsettled business conditions all over the country and said that any merchant might become an insolvent at any time. Secondly, even though a creditor or decree-holder got him arrested for certain dues or court costs, etc., it might be that his assets were more than his liabilities but, for the time, he might be unable to pay the creditor. In such circumstances, he said, there was no justification to remove him from his Presidentship or Vice-Presidentship. For these reasons, he opposed the amendment.

THE SECOND MEMBER OF COUNCIL invited the attention of Mr. Subbarama Chetty to the last clause of the Bill which said that the removal from office would be only when an order of attachment in execution of a decree was subsisting against his property for a long time, and not merely when there were one or two attachment warrants.

MR. P. SUBBARAMA CHETTY pointed out that the President or Vice-President would be removed from office even when his property was attached for non-payment of a loan.

THE SECOND MEMBER OF COUNCIL replied that even for one or two such attachments, no question of removal from office would arise, and that the clause referred to the property being under attachment for a long time, meaning thereby that time for re-payment had been given and still the debtor failed to pay.

MR. P. SUBBARAMA CHETTY explained that, due to the economic depression, the person might not be able to re-pay even for one year. At the same time he might have his property which, in better times, was sure to fetch him much

more than the amount of the debt. How could such a person, he asked, be disqualified even if there be more than one or two arrests in the meanwhile?

THE SECOND MEMBER OF COUNCIL explained that in such cases, Section 23 would come into play and the person concerned would have every scope to state his own case.

MR. P. SUBBARAMA CHETTY said that any one who was unable to pay for a long time would not like to sit in jail indefinitely. He would at the earliest opportunity become an insolvent and consequently lose his office. If this was so, he did not see any necessity for an amendment as proposed.

MR. J. MAHOMED IMAM wished that all Presidents and Vice-Presidents should be above board and in this view he supported the amendment.

MR. C. SUBBANNA NAIK said that in almost every mofussil station, officials and non-officials regarded themselves as two separate contending parties, and that in such cases, the officials would like to take every opportunity of putting non-officials to disgrace. Such being the case, the amendment, if accepted, would expose the non-officials to constant worry. He was therefore not in favour of the proposed measure.

MR. B. GOPALACHAR said that in many cases the arrest warrants were due to personal spite and were obtained in addition to injunction against personal properties of the debtor. The warrants of arrest by themselves, therefore, were not enough ground for removing the person from office. Secondly, the District Boards had been only recently given the privilege of electing their own Presidents and Vice-Presidents, and it was therefore too early to think of penal provisions like the one under discussion. He was therefore opposed to the amendment.

MR. D. S. MALLAPPA said that the need for a provision like this had not been made out and it did not exist in any other country where local self-government was in vogue. There were some rules in respect of heavily indebted officers of Government but those rules were not enforced in practice and even very high officers against whom warrants of arrest were frequently obtained had not been removed from their offices. In other countries where similar rules existed, they were strictly enforced but here they were rarely respected. Such being the case, he did not see why non-officials should be subjected to unnecessary hardships. As previous speakers had already pointed out, there were law suits of various descriptions, such as partition suits, suits for re-payment by

sons of debts incurred by their ancestors, and so on, and a warrant of arrest might be obtained by the decree-holder simply because the judgment-debtor was unable to furnish security. In such cases, it would be very hard to enforce provisions of this kind against the debtors. The speaker feared that even if a measure like this was passed, it would actually operate only against those non-officials who discharged their duties fearlessly and were not over-anxious to obey official instructions. He was aware of cases where even the richest merchants had their own debts, and he was also aware of a non-official President of a local self-governing body in the Bombay Presidency against whom there was once a warrant of arrest. He was not removed from office. He argued out his case and got himself acquitted. Again, there were instances of arrest having been executed just on the day of elections, showing that it was all done out of personal spite. In these circumstances, it would be very undesirable to place such a provision on the Statute Book, giving an impression to the rest of the country that probably undesirables had come to occupy responsible non-official posts and for that reason the Government had considered it necessary to make such a provision. He said that in England there was a provision to the effect that no creditor could arrest a person on the eve of elections, and that even persons in jail were allowed to participate in elections and proceedings of important constitutional bodies, and then taken to jail again. Such being the case, he would be very sorry if a man was disqualified to continue as President or Vice-President of a District Board for the one simple reason of heavy indebtedness.

He said that a similar question had come up at one of the Local Self-Government Conferences some time back and that he had advanced these same arguments on that occasion. These, he remembered, had been accepted then, and he could not understand why the same question should have cropped up on the present occasion. If once a measure like this was applied to District Board Presidents and Vice-Presidents, there would soon come a time, he feared, when it might be extended to Honorary Magistrates, District Board Members, Municipal Councillors and all non-official workers, and that would be a most regrettable thing done.

He did not know why such special provisions were considered necessary in the case of indebted Presidents or Vice-Presidents. He asked what was proposed to be done if there was a criminal case against a President or Vice-Presi-

dent, because the same dislocation of work would be caused in the District Board in case he was arrested under such circumstances. So long as things were adjusting themselves, there was no need for making legislation on imaginary grounds. For these reasons, he opposed the measure.

MR. M. C. LINGE GOWDA thanked the Government for having proposed a measure like this. He said it was the duty of the Government to safeguard public interests and to see that non-official Presidents and Vice-Presidents discharged their duties satisfactorily. As they went on entrusting heavier responsibilities to local self-government institutions, they must naturally place healthy checks on them and this was what was proposed in the case under discussion. He appealed to the members to remember that, if they supported the measure, their own financial and other interests would be safe, otherwise there was the risk of funds being misapplied.

Another Member said that the voters knew their duty well and were confident of returning men of the proper type as Presidents and Vice-Presidents.

Continuing MR. M. C. LINGE GOWDA said that there was nothing for honest men to fear in the amendment. He did not agree with those who opposed it and thought that such persons might as well ask for the repeal of the Indian Penal Code. The amendment, he said, was intended to ensure the prosperity of the State and he requested all those present to lend their hearty support to it.

The general principles of the Bill were at this stage put to vote and lost, 44 members voting for and a large number against it.

The House rose for the day at 5-10 P.M. to meet again at 12 NOON the next day.
